

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BERNARD TALBERT,)
)
Plaintiff,)
)
v.) 1:12CV1256
)
UNITED STATES, DEA,)
)
Defendant(s).)

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a federal prisoner, previously submitted a document entitled “Petition for Claim of Forfeiture Property by an Interested Person” in which he sought certain funds seized by Defendant. The Court treated that filing as a Motion for Return of Property, opened the filing as Case No. 1:12CV1022, and eventually dismissed it, primarily because Plaintiff failed to allege any cognizable interest in the property he sought. As stated in a Text Order denying an attempt to amend the earlier case, Plaintiff does not have an interest, “but instead simply wants the property.” (Case No. 1:12CV1022, Text Order entered 10-19-2012.) Plaintiff then filed this action using the proper forms for a Motion for Return of Property, along with an Application to proceed *in forma pauperis*. Although he does use the correct forms, Plaintiff still does not allege any cognizable interest in the property. Nothing has changed, he still “simply wants the property.” However, this is not sufficient to sustain a Motion for Return of Property. For that reason, the current Motion should be dismissed.

In forma pauperis status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order.

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a proper submission demonstrating a recognized legal interest in the property sought.

This the 22nd day of October, 2013.

/s/ L. Patrick Auld
L. Patrick Auld
United States Magistrate Judge